

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)	
)	
Toll Free Service Access Codes)	CC Docket No. 95-155
)	
Telecommunications Carrier's Use Of)	CC Docket No. 96-115
Customer Proprietary Network Information)	
And Other Customer Information)	
)	
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**COMMENTS OF SOMOS, INC.
ON PETITION FILED BY 800 RESPONSE INFORMATION SERVICES LLC**

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EXECUTIVE SUMMARY

Toll-Free providers offer an important service by furnishing consumers with a simple and quick way to communicate with businesses and other Toll-Free subscribers. To provide Toll-Free service effectively, providers often require access to location-based information to properly route Toll-Free calls to the caller's intended destination. But recent or proposed changes to carrier data-sharing policies threaten to harm the Toll-Free market by blocking or severely limiting access to this important data. Consumers are rightly concerned about protecting their privacy interests, but allowing Toll-Free providers access to coarse location data does not harm those interests. Rather, providing location information helps fulfill consumer demand by connecting Toll-Free calls in a quick and accurate manner. Moreover, viable location-based Toll-Free services are critical to ensuring the best use of Toll-Free numbers and the businesses that use them. Thus, imposing unreasonable burdens on Toll-Free carriers to obtain location-based routing information makes little sense for either consumers or the industry.

The Commission should clarify that applicable law does not prohibit carriers from disclosing location information for routing Toll-Free calls without first obtaining express consumer consent. But the Commission should nonetheless consider distinguishing between coarse and precise location-based data. These two different types of location-based data implicate different consumer privacy concerns and, as such, should be treated differently. Specifically, the Commission should clarify that transmitting coarse location information to Toll-Free service providers does not require affirmative consent. Finally, Somos recommends the Commission initiate a process to develop industry-wide best practices to further protect consumer privacy interests.

INTRODUCTION

Toll-Free service offers tremendous benefits to both the subscribers who rely on Toll-Free numbers and the individuals who place Toll-Free calls. One of these benefits is the flexibility that Toll-Free service providers have to offer innovative routing solutions for their customers. Location-based routing is a key part of that offering: By knowing the location of the caller, a Toll-Free service provider can route the call to the closest location of a business or the nearest call center of a helpline. It can offer multiple subscribers the benefit of a single Toll-Free number by dividing up the service area so that a caller in Illinois dialing 1-800-ATTORNEY reaches a law firm in Chicago, while a caller in Texas dialing that same number is connected to a Dallas practitioner. And it can ensure that an HVAC service licensed to provide service only in Mid-Atlantic states does not inadvertently exceed that jurisdiction, by limiting incoming calls to the appropriate geographic scope and providing an explanatory message for callers from outside the area.

These abilities increase the value of a Toll-Free number. They benefit subscribers; they benefit the industry; and they benefit the public. But they cannot work if Toll-Free service providers do not know the geographic origin of a call. For calls originating from wireless numbers, the telephone number information provided in an SS7 message does not necessarily convey the actual location of the caller, and it does not allow proper routing for the types of services described above. Toll-Free service providers therefore rely on information provided by the location platforms that are maintained by wireless carriers or by their agents.

As the Petition describes, that access is at risk in the wake of recent events that have raised concerns about consumer privacy, and specifically about wireless carriers' obligations to safeguard their customers' location data. Wireless carriers are understandably concerned about these developments; they have a legal obligation to protect proprietary customer information and

a business interest in maintaining their customers' trust. But their reactions—proposing to cut off all access to location data or to impose cumbersome opt-in and consent requirements—threaten the viability of geographically based Toll-Free services and the value of Toll-Free numbers. Toll-Free service providers have an interest in continuing to provide these valuable services, and the public has an interest in being able to use Toll-Free numbers to easily connect with businesses and service providers.

As the neutral Toll-Free Numbering Administrator, Somos has an interest in ensuring that these competing needs are properly balanced and that a workable solution is reached. Somos provides these comments with this perspective in mind. The Petition identifies key legal uncertainties that are impeding the industry from independently reaching a solution. As described below, Somos requests that the Commission take this opportunity to clarify the law, and particularly to make clear that wireless carriers can comply with their privacy obligations while allowing Toll-Free service providers access to location information used to route and bill for Toll-Free calls, relying on opt-out instead of opt-in procedures. In doing so, the Commission may wish to take the further step of distinguishing between “precise” data that reveals the caller’s location with much more specificity than the “coarse” or “fuzzy” data used in most geographically routed Toll-Free services. Finally, the Commission may set the stage for the Toll-Free industry to continue the work of protecting consumer privacy by developing best practices with regard to location data used for geographically routed services.

DISCUSSION

I. Imposing Unreasonable Burdens on Obtaining Location Based Routing Information Frustrates Consumer Demand and the Toll-Free Market

A. Location-Based Toll-Free Services

Toll-Free numbers have traditionally provided callers with a free and convenient way to contact businesses, non-profits, government, and other organizations. Often the users of Toll-Free services will seek out particular Toll-Free numbers that are easy for callers to remember, because they spell out a certain message or represent something related to the organization or its industry. A potential customer will easily recall 1-800-FLOWERS or 1-800-ATTORNEY, for example; likewise, 1-800-273TALK and 1-800-799SAFE give individuals in crisis simple, straightforward ways to seek help.

Advances in technology have allowed Toll-Free service providers to offer even more value to their customers and to end-users dialing Toll-Free numbers. One key way of increasing the usefulness of Toll-Free numbers is through an array of services that rely on the caller's location to route the call. These location-based services take a number of forms.¹

For example, a large business or organization might wish to take advantage of the simplicity of a single, nationwide Toll-Free number for callers to dial. But when a caller dials that number, he or she can be routed to the nearest store or office location based on geographic information about where the call originated. This ease of access benefits both the Toll-Free subscriber and its customers.

¹ See generally North American Numbering Council, "Geographic Routing of Toll Free Services" White Paper, Federal Communications Commission Letter (July 13, 2015); Alliance for Telecommunications Industry Solutions, "Toll-Free Numbering Resources," Federal Communications Commission Letter (April 16, 2015).

Similarly, “Shared Use” Toll-Free numbers expand this concept beyond a single business or entity. A single Toll-Free number can be shared among several small businesses in distinct geographic markets. A caller dialing a shared-use number will then be routed to the appropriate subscriber’s business based on the caller’s geographic location. For example, 1-800-PAVEMENT is a Shared Use number currently used by several driveway paving contractors. When a customer calls 1-800-PAVEMENT, the call is routed using the caller’s location to a contractor that can provide service in the area where the call originated. Shared Use not only facilitates access between Toll-Free users and customers, it also makes the most use out of scarce Toll-Free resources. A desirable number that might have served only one small business in one area can now serve multiple customers across the North American Numbering Plan area.

Another important Toll-Free service that relies on location data is geographically limited numbers. A Toll-Free subscriber may be a business that is licensed or authorized to provide its services only in a particular geographic area, such as a specific state. With a geographically limited number, the Toll-Free service provider can use the caller’s location to determine whether the call is coming from within the authorized area and can be routed through to the subscriber. If the call originates outside the authorized area, the call will not be completed and the caller will be provided with a message explaining the situation. Here too, the Toll-Free service provider’s ability to access information about the caller’s location benefits the Toll-Free subscriber, the consumer placing the call, and the general public—and it increases the value of using a Toll-Free number.

Each of these location-based services relies on information about the geographic location of the calling party. When the calling party uses a landline telephone, the telephone number provided in the SS7 signaling will typically be sufficient to determine the origin of the call. But a wireless caller’s location is untethered to his or her telephone number, both because of the

nature of the wireless device and because of wireless number portability. Toll-Free service providers (also known as Responsible Organizations, or “Resp Orgs”) therefore need a different way of locating these callers to route them to the correct subscriber or subscriber location, or to appropriately enforce geographic limitations on a number. Therefore, Toll-Free service providers rely on inquiries to the location-based services (“LBS”) platforms that wireless carriers already use to enable various location-based apps and services on customers’ mobile devices.

Two basic types of location data are available through these platforms: “precise” information and “coarse” information. Precise information provides the caller’s exact location, within a very narrow range, by relying (for example) on GPS data. Somos understands that the geographic Toll-Free routing services described above typically do not obtain or use this precise location information. Instead, they access and use coarse (sometimes referred to as “fuzzy”) location information, which indicates a caller’s location within about 500 to 1500 meters of their nearest cell tower. The caller can be anywhere within approximately a quarter square mile surrounding that cell tower. This coarse location data is sufficient to properly route calls; precise data is not necessary for most commercial usage.² Somos understands that Toll-Free service providers use the coarse location data only for the purpose of routing Toll-Free calls and billing their Toll-Free subscribers.

B. Changes to Carrier Data-Sharing Policies

Until earlier this year, coarse location data was available from the major wireless carriers through LBS providers for the purpose of correctly routing Toll-Free calls. Recently, however, several wireless carriers have indicated that they are unwilling to provide coarse location

² Somos understands that precise data is needed only for services that require an exact location such as food delivery or roadside assistance. These services can usually obtain consent or location information directly from consumers.

information for Toll-Free services, or that they will provide such data only after onerous opt-in requirements. Somos understands that Sprint has ceased providing any location data at all; that AT&T is blocking Toll-Free providers from interconnecting to their location platform for all Toll-Free calls that are not “safety related”; and that Verizon is requiring explicit opt-in notice and double consent to all calls originating from their service.³

But without readily available coarse location information, wireless callers can be routed to the wrong business location—or their call might not be able to be completed at all. The stakes are even higher for critical services that rely on location-based routing, such as suicide prevention counseling, domestic violence hotlines, and other mental and physical health providers. Callers already facing difficult or crisis situations are likely to be deterred from accessing these services if they are confused or frustrated by the obstacles placed in their path. As the Petition points out (at 5-6), these problems are compounded for callers who are elderly or are non-native English speakers.⁴

In addition, onerous consent requirements take a significant amount of time for call set-up. Until recently, a coarse location lookup to properly route a call took about five seconds. The consent requirements being contemplated by some wireless carriers will now extend the call set-up time to 30 to 60 seconds or more. Many callers will become frustrated and abandon the call

³ See, e.g., Sara Ashley O’Brien, *Telecom Companies Say They Won’t Share Your Location Data Anymore*, CNN BUSINESS (June 19, 2018), <https://money.cnn.com/2018/06/19/technology/telecom-location-data>; Nick Statt, *AT&T and Sprint to Follow Verizon in Ending Its Sale of User Location Data to Third-Party Brokers*, THE VERGE (June 19, 2018), <https://www.theverge.com/2018/6/19/17479490/att-follows-verizon-user-location-data-sale-brokers>.

⁴ Petition of 800 Response Information Services LLC for Emergency Declaratory Relief, or, in the Alternative, Petition for Further Rulemaking, CC Dkt. No. 96-115 (filed Oct. 10, 2018) (Petition), <https://ecfsapi.fcc.gov/file/1010246296054/Petition%20for%20Emergency%20Declaratory%20Ruling.pdf>.

at that point.⁵ Without the ability to route calls using coarse location information for wireless callers, geographically routed Toll-Free numbers will not work and such services will be abandoned by users. Geographic routing is an efficient and effective way to use very valuable and recognizable Toll-Free numbers, but it can only work if coarse location information data is readily and quickly available.

C. Consumer Interests

Consumers are understandably concerned about the potential misuse of their location information. These concerns have been amplified by the recent spate of news articles highlighting how certain companies are tracking consumers via applications on their cellphones.⁶ These privacy concerns are particularly troubling when precise location information (by GPS or nearest Wi-Fi router, for example) is used to provide targeted advertising or other services, which is often used without the subscriber's direct knowledge. Toll-Free routing, however, does not raise these same privacy concerns, because (1) the information is not used for any purpose other than routing and billing for a call the customer chose to place and (2) coarse data is inherently imprecise and provides only a caller's approximate location based on the cell tower that picks up the call.

⁵ Somos has been advised by certain Resp Org customers that call abandonment increases significantly when call setup times exceed a caller's reasonable expectation.

⁶ See, e.g., Drew FitzGerald, *How Wireless Carriers Get Permission to Share Your Whereabouts*, WALL STREET JOURNAL (July 15, 2018), <https://www.wsj.com/articles/how-wireless-carriers-get-permission-to-share-your-whereabouts-1531659600>; Drew FitzGerald & Sarah Krouse, *Verizon, AT&T, Sprint to Cut Off Data Providers After Customer Locations Were Revealed*, WALL STREET JOURNAL (June 20, 2018), <https://www.wsj.com/articles/verizon-to-cut-off-data-providers-that-gave-up-customer-locations-1529423758>; Gerrit De Vynck, *Now Apps Can Track You Even After You Uninstall Them*, BLOOMBERG BUSINESSWEEK (Oct. 22, 2018), <https://www.bloomberg.com/news/articles/2018-10-22/now-apps-can-track-you-even-after-you-uninstall-them>.

Importantly, consumers expect to be connected to a geographically appropriate location when calling a Toll-Free number. An opt-*out* process for providing coarse location information respects consumer privacy and choice. This type of process informs the consumer that their location information is being used and gives them the choice to continue with the call or end it; it does not require any affirmative action from a consumer who wants to be routed appropriately. Requiring a cumbersome opt-in procedure (or preventing businesses from accessing location-based data at all), however, frustrates the purpose of using a Toll-Free service. Consumers at least implicitly understand that some sort of coarse data use occurs when calling a Toll-Free service number because they expect to be routed to the nearest business they are calling. This is a reasonable and expected tradeoff. To restrict or limit coarse location information use would frustrate the benefits of calling a single Toll-Free number serving multiple organizations or multiple locations of a particular organization.

Moreover, requiring text message opt-in procedures presents a physical hazard concern for consumers calling Toll-Free services while driving. Indeed, a caller who dials a geographically routed Toll-Free number while driving (presumably using voice dial and hands-free assistance) may be forced to “dial 1” to be connected or, worse, respond to a text for consent to route the call using coarse location data. This puts drivers and others in danger by unnecessarily distracting the driver with burdensome consent requirements.

D. Industry Interests

Viable location-based Toll-Free services are critical to ensuring the best use of Toll-Free numbers. And safeguarding the efficient and widely accessible use of Toll-Free resources is key to maintaining the value and fairness of Toll-Free numbering. Toll-Free numbers are valuable to subscribers and their customers if they work as intended: by making it easier for the caller to reach the Toll-Free subscriber and access desired services.

Policies and processes that discourage callers from using geographically routed Toll-Free numbers, or that prevent Toll-Free subscribers from relying on geographic routing in the first place, present a real risk of harm to the Toll-Free industry and the value of Toll-Free numbering. A business that is geographically limited, for example, will be disinclined to use Toll-Free services if the provider cannot guarantee that it can accurately screen out calls from customers the business is forbidden from serving. Otherwise, the subscriber will be paying for calls that are essentially wrong numbers (from callers whose mobile devices may have the right area code but who are in fact living in a different area). In addition, impeding shared-use numbers and restricting a particular Toll-Free number to one business will have one of two effects: It will reduce the value of the number by restricting it to a single local business rather than allowing nationwide use—limiting “1-800-ATTORNEY,” for example, to a single legal provider rather than enabling callers to be connected to legal service providers nationwide. Or it will shut out smaller businesses from competing for Toll-Free numbers that would otherwise be distributed on a shared-use basis, restricting these high-value numbers to larger businesses. Somos understands from its Resp Org customers that Toll-Free subscribers are already abandoning their geographically routed Toll-Free numbers—in some cases, well-established numbers that have served subscribers and customers for years—in light of the newfound difficulty in routing wireless-originated calls.

This value proposition is especially critical as the Commission tests out the auction process for the recently opened 833 Toll-Free code.⁷ The Commission recently approved an auction for mutually exclusive Toll-Free numbers in the 833 area code. There are more than 17,000 numbers that have been identified as mutually exclusive, meaning that more than one

⁷ Report and Order, *In the Matter of Toll Free Assignment Modernization Toll Free Service Access Codes*, CC Dkt. No. 95-155, 2018 WL 4678556 (Sept. 27, 2018).

party requested the Toll-Free number. Some of the most highly valued numbers are likely to be numbers such as 833-DOCTORS, 833-LAWYERS, and 833-333-3333. Without Shared Use, these numbers will be used only by a single entity, significantly depressing the overall potential value of the number. The value and utility of a great vanity number is increased by multiple parties using the same number through Shared Use. Small businesses that would otherwise be outbid for a great vanity number have the opportunity to use it at a significantly reduced investment through Shared Use. Ultimately, the value and utility of all Shared Use numbers, including those that will result from the 833 auction, is significantly decreased if location information cannot be used to route the call to the proper end user.

But this notice and consent issue affects more than just Shared Use numbers. Many regional businesses that do not have a nationwide footprint use a Toll-Free number. For example, a regional provider of HVAC and other household services may only be licensed to provide service in the Mid-Atlantic region. The company could limit their Toll-Free service to only areas they service. Since they are only licensed to do work in Mid-Atlantic states, they cannot serve callers from the Midwest or West Coast, or anywhere else outside their service territory. To solve this type of problem, Resp Orgs can set up routing in the SMS/800 Toll-Free Number Registry that restricts calls to only the region(s) a company serves. Callers from outside the region will get a message along the lines of: “This number cannot be called from your calling area.” The call does not complete, so the caller’s time is not wasted talking to a business that cannot provide service to them, and the subscriber is not charged for a call that cannot possibly be a customer of the business due to the limited service area of the company.

Finally, the transition to nationwide number portability (including landlines) will make LBS even more important because geographic information will be needed for all Toll-Free calls,

not just those placed from mobile phones. Thus, any caller's telephone number will be of little to no use for routing calls once nationwide number portability is realized.⁸

II. The Commission Should Clarify That Transmitting Coarse Location Information to Toll-Free Service Providers Does Not Require Affirmative Consumer Consent

The Petition raises legitimate questions about the application of Customer Proprietary Network Information ("CPNI") and interconnection laws. The Commission should clarify that current law permits carriers to provide location-based data used in the rendering of Toll-Free services. Moreover, the Commission should consider distinguishing between coarse and precise location information to better protect consumer privacy and the Toll-Free market. Finally, the Commission is encouraged to provide guidance on the development of industry-wide best practices to better standardize the protection of consumer data.

A. The Telecommunications Act of 1996 Does Not Prohibit Carriers From Disclosing Location Information for the Purpose of Routing Toll-Free Calls

The issues raised in the Petition implicate two areas of the law administered by the Commission: carriers' obligation to protect CPNI⁹ and carriers' interconnection obligation.¹⁰

Section 222 of the Communications Act requires all telecommunications carriers to protect the confidentiality of their subscribers' CPNI. Specifically, the Act requires that a "telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for

⁸ Report and Order, *In the Matter of Nationwide Number Portability*, WC Dkt. No. 13-97, 2018 WL 3435170 (July 13, 2018).

⁹ The Act defines CPNI as "information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship." 47 U.S.C. § 222(h). Here, the "location" information is implicated.

¹⁰ See 47 U.S.C. § 251(a).

such purpose, and shall not use such information for its own marketing efforts.”¹¹ Carriers are not, however, prohibited “from using, disclosing, or permitting access to customer proprietary network information obtained from its customers . . . to initiate, render, bill, and collect for telecommunications services.”¹²

In addition, as a general duty, a telecommunications carrier is obligated to “interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.”¹³ The Petition (at 8-10) takes the position that a wireless carrier’s interconnection obligations require the carrier to allow access to its location platform for Toll-Free service providers.

But it should not be necessary for the Commission to wade into that question. Instead, the Commission can clarify that the Act’s CPNI obligations do not prohibit wireless carriers from disclosing—either directly or through access to location-based services platforms—information about a caller’s location to a Toll-Free services provider who will use that information only for rendering and billing for telecommunications services. *See* 47 U.S.C. § 222(d)(1). As discussed above, Somos’ understanding is that Toll-Free service providers are using location-based data to properly route calls and for billing purposes only. They do not sell this information to third parties, use it to serve advertisements, leave cookies on a customer’s phone, or do anything else with the data that is proscribed by the Act. They use it to complete calls from a customer to the customer’s intended called party. The Commission should take this opportunity to clarify that this use of CPNI falls squarely within the exception provided by § 222(d)(1).

¹¹ *Id.* at § 222(b).

¹² *Id.* § 222(d); *see also* 47 C.F.R. § 64.2001 et seq.

¹³ 47 U.S.C. § 251(a).

Because the location information is used only to initiate and render telecommunications services, the law does not require affirmative customer consent to disclose CPNI in this fashion. Where § 222(c)(1) requires “the approval of the customer” for disclosure, the statute demands “express prior authorization of the customer” to disclose a mobile caller’s location information other than for the limited purposes listed in § 222(d)(4).¹⁴ But that provision is not triggered in the case of geographic Toll-Free routing, because the disclosure is within § 222(d)(1) and “the approval of the customer” is not needed. Carriers that require express customer consent before providing coarse location data do so unnecessarily and at great cost to consumers and the Toll-Free market industry. The Commission should clarify that these carriers have no legal obligation to impose such requirements.

There may be ambiguity about whether all Toll-Free service providers are covered by this analysis. Section 222(d)(1) refers to initiating and rendering “telecommunications services.” In another context, the Commission has held that Resp Org service is not a common carrier service.¹⁵ The Commission has also equated “telecommunications services” under the Act with common carrier service.¹⁶ Some Resp Orgs that provide Toll-Free services, including geographically routed Toll-Free services, do not provide other services that would bring them within the definition of a “common carrier” and therefore a provider of “telecommunications services.” To the extent this creates any ambiguity about whether the use of location-based information in geographic routing of Toll-Free calls always involves the initiation and rendering of (and billing for) “telecommunications services” within the meaning of § 222(d)(1), the

¹⁴ See 47 U.S.C. § 222(f).

¹⁵ See Report and Order, *In re 800 Data Base Access Tariffs and the 800 Service Management System Tariff*, 11 FCC Rcd 15227, 15248 ¶ 44 (1996).

¹⁶ See Third Report and Order, *In re Administration of the North American Numbering Plan*, 12 FCC Rcd 23040, 23077 ¶ 71 (1996).

Commission should clarify that the services in question fall within that statutory provision regardless of whether the Resp Org is also a telecommunications carrier for other purposes.

By clarifying for the wireless carriers that they are acting within the law if they provide callers' location information to Toll-Free service providers for the purpose of geographic routing, the Commission can settle this critical industry issue and allow market participants to make informed choices in the best interest of their customers without fear of legal uncertainty.

B. The Commission Should Distinguish Between Coarse and Precise Location-Based Data

Although sharing location-based information presents some tension between customer privacy interests and other consumer and industry concerns, there can be an adequate balance among them. As discussed above, there is no legal obstacle to sharing this information, including precise information. But in the interest of reassuring customers that their data will be protected, the Commission should consider drawing a distinction between coarse and precise location-based data. Somos believes this solution will protect both consumer privacy and the Toll-Free market.

These two types of data implicate different privacy interests and should be treated as such. Precise location-based data can reveal a caller's location with a great level of specificity. Coarse data, however, only provides granular location information—enough to accurately route a call to the appropriate geographic location. Consumers are more likely to be at ease giving categorical or approximate data about themselves even if they would be hesitant to disclose more detailed information. For example, when consumers are asked to fill out surveys, one is often asked to check a box indicating their age within 5-10 years. Providing that generalized level of information is less invasive than disclosing one's date of birth. Similarly, because these two

types of data reveal different degrees of location information, it makes sense to require different consent structures.

Moreover, when a caller dials a Toll-Free number, that individual is implicitly opting in to the use of coarse location information by placing the call in the first place. Callers have the expectation that their call will be routed to the geographically-appropriate location. If this implied consent is deemed insufficient by the Commission, Somos alternatively suggests that the coarse location information necessary to route calls for Shared Use numbers requires only a recorded notice, which many Toll-Free service providers are already giving to customers. In that circumstance, callers retain the choice to opt out by hanging up.¹⁷ This arrangement would still allow other calls to be completed without significant interference, delay, input, or interruption.

But the carriers' proposed (or recently implemented) policy changes do not distinguish between the two types of data at stake, harming the consumer and industry by requiring the same type of consent for both. These new policies would only deter and cause delays for callers using Toll-Free numbers that provide commercial and urgent services to consumers. Consumers want to both protect their sensitive location information and their calls to go through to the right place without hassle. With passing and limited use of coarse location information, both of these goals can be accomplished.

C. Industry Best Practices

The Commission should take this opportunity to address industry-wide best practices for the dissemination and handling of location-based data. Beyond providing legal guidance, the Commission can help encourage the industry to develop certain practices like encryption, hashing, retention and destruction of data, and any other methods that would protect consumer

¹⁷ See *supra* Section I.D.

privacy. By developing some standardized data-protection methods, the industry can be better-equipped to fulfill its obligations to protect sensitive location data, and consumers can be assured that their private data is handled securely.

CONCLUSION

The Commission should clarify the appropriate use of location-based services. First, it can recognize that imposing unreasonable obligations to obtain location-based data frustrates both consumers and businesses alike. Second, it can confirm that applicable law does not require carriers to obtain affirmative consent for Toll-Free providers to access coarse location-based data. The Commission might further protect consumer privacy interests by requiring affirmative consent for obtaining precise data. Further, distinguishing between these two types of data can protect both consumer privacy and the Toll-Free market. Finally, Somos encourages the development of industry-wide best practices to ensure protection of consumer privacy in the provision of location-based Toll-Free services.

Respectfully submitted

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